

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

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ROGER MARTIN FRANDSEN,

Plaintiff,

-vs-

CASCADE COUNTY SHERIFF'S  
DEPUTIES MATTHEW DARLINGTON,  
MIKE MELLOTT, AND SERGEANT  
SCOTT VANDYKEN; and GREAT  
FALLS POLICE DEPT. SERGEANT  
ERIC BAUMANN, SERGEANT DEAN  
BENNETT, AND OFFICERS JEFF  
BRAGG, KEITH HEDGES, MORGAN  
KASUSKE AND TRAVIS PALMER,

Defendants.

Cause No. CV-08-26-GF-SEH-RKS

**FINDINGS AND  
RECOMMENDATIONS OF  
UNITED STATES  
MAGISTRATE JUDGE TO  
GRANT DEFENDANT KEITH  
HEDGES' MOTION FOR  
SUMMARY JUDGMENT**

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Plaintiff Roger Martin Frandsen (Frandsen) instituted this action pursuant to 42 U.S.C. § 1983 seeking to recover for alleged constitutional violations during his arrest in Cascade County, Montana. Plaintiff's only remaining claim is a claim for excessive use of force. This case was reassigned to the undersigned for the submission of proposed findings and recommendations by United States District Judge Same E. Haddon. Pending

before the Court is Defendant Officer Keith Hedges' ("Hedges") motion for summary judgment (*Court's Doc. No. 55*). In Frandsen's *Response Brief In Objection to Defendants' Council Dee Ann Cooney's and GFPD Defendants Motion for Summary Judgment and Statement of Genuine Issues* (*Court's Doc. No. 75*) he states that he agrees to "drop Hedges from the Lawsuit".

Specifically, he states:

For SUF 57 Plaintiff – Agrees that Hedges is not liable and did not omit to perform a sworn duty. Plaintiff Agrees to drop Hedges from the Lawsuit/claim

SUF – 56 - No Dispute – Summary Judgment on Plaintiffs claims Against Hedge's (Alone) is appropriate.

Accordingly, based on Frandsen's agreement that summary judgment on his claims against Hedges is appropriate:

**IT IS HEREBY RECOMMENDED** that Defendant Hedges' motion for summary judgment be granted and the Clerk of Court should be directed to enter judgment in favor of Defendant Hedges.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATIONS  
AND CONSEQUENCES OF FAILURE TO OBJECT**

Pursuant to 28 U.S.C. § 636(b)(1), Plaintiff may serve and file written objections to these Findings and Recommendations within fourteen (14) days of the date entered as indicated on the Notice of Electronic Filing. Any such

filing should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.”

A district judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendation. Failure to timely file written objections may bar a de novo determination by the district judge and may waive the right to appeal the District Court’s order. ***Martinez v. Ylst***, 951 F.2d 1153 (9<sup>th</sup> Cir. 1991).

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court’s final judgment.

DATED this 7th day of September, 2010.

/s/Keith Strong  
Keith Strong  
United States Magistrate Judge